



COMMONWEALTH of VIRGINIA

Office of the Governor

Doug Domenech
Secretary of Natural Resources

March 30, 2012

Mr. Shawn Garvin
Regional Administrator
U.S. EPA Region 3
1650 Arch Street (3PM52)
Philadelphia, PA 19103-2029

RE: Transmittal of Virginia's Final Phase II Watershed Implementation Plan

Dear Mr. Garvin:

On behalf of Virginia Governor Robert F. McDonnell, enclosed is Virginia's Phase II Watershed Implementation Plan (WIP). The Phase II WIP supplements the Phase I WIP and the activities already implemented in our efforts to reduce phosphorus, nitrogen, and sediment loads to the Bay.

Since the submission of our Phase I WIP in December 2010, we conducted numerous meetings with stakeholders, citizens and localities throughout the Chesapeake Bay watershed and encouraged active involvement in the development and implementation of the Phase II WIP.

During these meetings, we explained how the model represented land use, best management practice (BMP) implementation levels and loadings from each of the land uses at the local scale. We encouraged localities to be active partners in improving the land use information in the model, the TMDL and the WIP. We asked localities to provide more accurate local land use information, update BMP implementation progress, and, most importantly, develop strategies that could be implemented to meet the goals of the WIP.

Unfortunately, the time frame provided by EPA to complete the Phase II planning process was far too short for localities, individually or collectively, to finalize and gain approval from governing bodies on potentially expensive strategies and commitments. Despite these constraints, our efforts resulted in 95% of Bay watershed localities actively participating in the Phase II planning process and submitting some level of strategies, information or data in support of this Final Phase II document. There is no doubt that our outreach efforts resulted in local decision makers gaining a greater understanding of pollutant loadings from the land uses within their jurisdictions and an appreciation for their contribution to meeting the reduction goals included in the WIP.

The Commonwealth's Phase II plan, which reflects the inputs of Virginia's stakeholders and localities, as well as from EPA, provides a solid framework upon which we can build using the established 2-year milestone planning process. Our work will not end with the submission of our Watershed Implementation Plan. As local strategies are refined, endorsed, and scheduled for implementation, they will be included as elements in the applicable 2-year milestone plan. Through this structure, Virginia will move forward with the implementation of this plan with a clear focus on state and local partnership, flexibility and cost effectiveness. Virginia will also rely on principles of adaptive management, taking advantage of new technology and cost effective methods that may become available in the future in order to achieve our goals.

In addition to this plan, which is also being released for additional public comment, we are submitting today two provisional Phase II WIP input decks for 2025. These will join the provisional input decks provided with our final 2012-2013 milestones. A final submission of the model inputs for 2012-2013 milestones, 2017 and 2025 will be prepared based on our review of the model outputs on the provisional submissions and timely progress in the following areas:

1. It is imperative that the model anomalies affecting nutrient management plans be corrected before the Phase II WIP inputs are finalized and the model is used to evaluate the WIPs or milestones. DCR and EPA staffs have had ongoing discussion regarding the crediting of nutrient management for use as a "placeholder" BMP as a fix to this recognized deficiency in the model. In addition, we remain concerned about the restrictions on the use of the interim BMP for planning scenarios only. It is impossible for the Commonwealth to develop a plan to meet pollution goals through 2025 if the plan is developed under one set of efficiencies and evaluated under another. Because there is an expert panel working on solutions to this model defect, we are awaiting their results prior to finalizing the input deck for the milestones and the WIP.
2. Crediting of the benefits of Virginia's actions to eliminate phosphorus in retail lawn fertilizers. While the requirements of the law have not fully come into effect, major fertilizer manufacturers have begun to implement its provisions and we expect that the Bay is already experiencing positive effects from this significant legislation. We would like to engage in a discussion about how to appropriately credit this progress in the milestones and the Phase 2 input decks.

As we did in our Phase I plan, we must reiterate Virginia's concerns about cost, and compressed timing in the development of this plan. This rush to completion is cause for concern in local governments and the private sector and does not reflect the actual time it takes to develop and implement strategies. We also restate our significant concerns with the near absolute reliance on management by computer model. While the Bay model has advanced over the years, it continues to demonstrate flaws that call its output into question.

We are especially concerned that the level of precision expected is far beyond what the model is capable of producing. Virginians have already invested billions of dollars in Chesapeake Bay water quality improvement to date. It remains our position that the success of the Bay restoration effort depends upon the provision of fair and sufficient federal funding and participation by federal facilities in this effort.

Based on all these issues, as we did with our Phase I WIP, we reserve the right to adjust this plan based on new information and changing economic, fiscal or scientific circumstances. As Virginians, we are committed to improving the health of the Chesapeake Bay for future generations to cherish. We believe a clean Bay is good for the economic well being of the Commonwealth. The actions we have taken to date, and will continue into the future, demonstrates our commitment to on-the-ground water quality improvement. We will continue to work with stakeholders and with the public to ensure that our plan improves water quality in a manner that is sensible, fair and cost-effective. It is our sincerest hope that EPA will provide the tools necessary to accurately assess our plans and provide reliable guidance to our federal and state partners on the best practices that will meet our shared restoration goals.

Sincerely,

A handwritten signature in black ink, appearing to read "Douglas W. Domenech", with a long horizontal flourish extending to the right.

Douglas W. Domenech
Secretary of Natural Resources